

Senate Bill No. 810

CHAPTER 937

An act to amend Sections 25503.6 and 25503.8 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 10, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 810, Costa. Alcoholic beverages: advertising restrictions.

Existing provisions of the Alcoholic Beverage Control Act known as "tied-house" restrictions generally prohibit certain alcoholic beverage licensees from holding an interest in various other alcoholic beverage licensees. Existing law generally prohibits a manufacturer of alcoholic beverages and a winegrower from paying, crediting, or compensating a retailer for advertising or paying or giving anything of value for the privilege of placing a sign or advertisement with a retail licensee. It authorizes, as an exception, the holder of a beer manufacturer's or winegrower's license to purchase advertising space and time from, or on behalf of, an on-sale retail licensee, subject to specified conditions, including that the on-sale licensee is the owner, an agent of the owner, manager of the stadium or arena, assignee of the owner's advertising rights, or the major tenant of the owner, of either an outdoor stadium or a fully enclosed arena with a fixed seating capacity in excess of 10,000 seats located in a county of the 8th class, or of a fully enclosed arena with a fixed seating capacity in excess of 18,000 seats located in Orange County. Existing law makes it a misdemeanor for the holder of a beer manufacturer's license or winegrower's license to induce a beer or wine wholesaler licensee to provide that advertising space or time to the on-sale retail licensee.

This bill would extend that exception to an on-sale licensee who is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or the major tenant of the owner of an outdoor stadium or fully enclosed arena with a fixed seating capacity in excess of 8,500 seats located in Kern County or an exposition park of not less than 50 acres that includes an outdoor stadium with a fixed seating capacity in excess of 8,000 seats and a fully enclosed arena with an attendance capacity in excess of 4,500 people, located within a county of the 4th class.

Under existing law, the holder of a beer manufacturer's license or a winegrower's license is permitted to purchase advertising space and time from, or on behalf of, an on-sale retail licensee under certain conditions, if the on-sale licensee owns a specified facility.

This bill would add a theme or amusement park and the adjacent retail, dining, and entertainment area located in Orange County to those facilities owned by on-sale retail licensees from whom holders of a beer manufacturer's or winegrower's license may purchase advertising space and time, as provided.

This bill would also make it a misdemeanor for an on-sale retail licensee, subject to the provisions of the bill, to solicit or coerce a holder of a beer or wine wholesaler's license to solicit a holder of a beer manufacturer's or winegrower's license to purchase that advertising space or time.

By creating a new crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 25503.6 of the Business and Professions Code is amended to read:

25503.6. (a) Notwithstanding any other provision of this chapter, the holder of a beer manufacturer's or winegrower's license may purchase advertising space and time from, or on behalf of, an on-sale retail licensee subject to all of the following conditions:

(1) The on-sale licensee is the owner, manager, agent of the owner, assignee of the owner's advertising rights, or the major tenant of the owner of any of the following:

(A) An outdoor stadium or a fully enclosed arena with a fixed seating capacity in excess of 10,000 seats located within a county of the eighth class, as defined in Section 28029 of the Government Code.

(B) A fully enclosed arena with a fixed seating capacity in excess of 18,000 seats located in Orange County.

(C) An outdoor stadium or fully enclosed arena with a fixed seating capacity in excess of 8,500 seats located in Kern County.

(D) An exposition park of not less than 50 acres that includes an outdoor stadium with a fixed seating capacity in excess of 8,000 seats and a fully enclosed arena with an attendance capacity in excess of 4,500 people, located within a county of the fourth class, as defined in Section 28025 of the Government Code.

(2) The outdoor stadium or fully enclosed arena described in paragraph (1) is not owned by a community college district.



(3) The advertising space or time is purchased only in connection with the events to be held on the premises of the stadium or arena owned by the on-sale licensee.

(4) The on-sale licensee serves other brands of beer or wine in addition to the brand manufactured by the beer manufacturer or produced by the winegrower purchasing the advertising space or time.

(b) Any purchase of advertising space or time pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the holder of the beer manufacturer's or winegrower's license and the on-sale licensee.

(c) Any holder of a beer manufacturer's or winegrower's license who, through coercion or other illegal means, induces a holder of a beer or wine wholesaler's license to fulfill those contractual obligations entered into pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(d) Any on-sale retail licensee, as described in subdivision (a), who solicits or coerces a holder of a beer or wine wholesaler's license to solicit a holder of a beer manufacturer's or winegrower's license to purchase advertising space or time pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

SEC. 2. Section 25503.8 of the Business and Professions Code is amended to read:

25503.8. (a) Notwithstanding any other provision of this chapter, the holder of a beer manufacturer's or winegrower's license may purchase advertising space and time from, or on behalf of, an on-sale retail licensee if all of the following conditions are met:

(1) The on-sale licensee is the owner of any of the following:

(A) A fully enclosed auditorium or theater with a fixed seating capacity in excess of 6,000 seats, at least 60 percent of the use of which is for plays or musical concerts, not including sporting events.

(B) A motion picture studio facility at which public tours are conducted for at least four million people per year.

(C) A retail, entertainment development adjacent to, and under common ownership with, a theme park, amphitheater, and motion picture production studio.

(D) A theme or amusement park and the adjacent retail, dining, and entertainment area located in Orange County.

(2) The advertising space or time is purchased only in connection with one of the following:

(A) In the case of a fully enclosed auditorium or theater, in connection with sponsorship of plays or musical concerts to be held on the premises of the auditorium or theater owned by the on-sale licensee.

(B) In the case of a motion picture studio facility, in connection with sponsorship of the public tours or special events conducted at the studio facility.

(C) In the case of a retail, entertainment development, in connection with sponsorship of public tours or special events conducted at the development.

(D) In the case of a theme or amusement park and the adjacent retail, dining, and entertainment area, located in Orange County, in connection with daily activities and events at the theme or amusement park and the adjacent retail, dining, and entertainment area.

(3) The on-sale licensee serves other brands of beer or wine in addition to the brand manufactured by the beer manufacturer or produced by the winegrower purchasing the advertising space or time.

(b) Any purchase of advertising space or time conducted pursuant to subdivision (a) shall be conducted pursuant to a written contract entered into by the holder of the beer manufacturer's or winegrower's license and the on-sale licensee, which contract shall not in any way involve the holder of a beer or wine wholesaler's license.

(c) Any holder of a beer manufacturer's license or winegrower's license who, through coercion or other means, induces a holder of a beer or wine wholesaler's license to fulfill those contractual obligations entered into pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, plus ten thousand dollars (\$10,000), or by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

(d) Any on-sale retail licensee, as described in subdivision (a), who solicits or coerces a holder of a beer or wine wholesaler's license to solicit a holder of a beer manufacturer's or winegrower's license to purchase advertising space or time pursuant to subdivision (a) or (b) shall be guilty of a misdemeanor and shall be punished by imprisonment in the county jail not exceeding six months, or by a fine in an amount equal to the entire value of the advertising space or time involved in the contract, plus ten thousand dollars (\$10,000), or

by both imprisonment and fine. The person shall also be subject to license revocation pursuant to Section 24200.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the loss of advertising revenue by the City of Bakersfield and the County of Orange may be alleviated at the earliest opportunity and to avoid any impropriety associated with summer and fall beer or wine sales and distribution at the designated facility from allowing beer manufacturers or winegrowers to compensate the facility operator for advertising, it is necessary that this act go into immediate effect.

